

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MICHAEL JEFFERS,	:	
	:	
Plaintiff(s)	:	
	:	Case Number: 1:02cv883-SJD-TSH
vs.	:	
	:	District Judge Susan J. Dlott
JAMES ERWIN, Warden,	:	
	:	
Defendant(s)	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on April 21, 2005 Report and Recommendations (Doc. 16). Subsequently, the plaintiff filed objections to such Report and Recommendations.

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) be DENIED with prejudice.

A certificate of appealability shall issue only with respect to petitioner's claim alleged in Ground One of the petition that the evidence was insufficient to support his conviction and three-year sentence on the firearm specification. A certificate of appealability shall not issue with respect to petitioner's remaining claims alleged in Grounds One and Two because petitioner has failed to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. §

2253(c); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal in forma pauperis, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would be taken in “good faith,” and therefore GRANTS petitioner leave to appeal in forma pauperis upon a showing of financial necessity. See Fed. R. App. P. 24(a); Kincade v. Sparkman, 117F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge